STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

SPRINTCOM, INC., WIRELESSCO, L.P., NPCR, INC. D/B/A NEXTEL PARTNERS, AND NEXTEL WEST CORP.	)	
Petition for Arbitration, Pursuant to Section 252(b) of the Telecommunications Act of 1996, to Establish an Interconnection Agreement With	)	Docket No. 12-0550
Illinois Bell Telephone Company d/b/a Ameritech Illinois	)	

Exhibit of Randy G. Farrar on Behalf of SprintCom, Inc., WirelessCo, L.P. through their agent Sprint Spectrum L.P. and Nextel West Corp.
Exhibit 6.0

SUPPLEMENTAL VERIFIED WRITTEN STATEMENT

FILED FEBRUARY 12, 2013

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REBUTTAL TESTIMONY

I. INTRODUCTION AND SUMMARY

Q. Please state your name, occupation, and business address.

A. My name is Randy G. Farrar. My title is Regulatory Policy Manager for Sprint United Management, the management subsidiary of Sprint Nextel Corporation. My business address is 6450 Sprint Parkway, Overland Park, Kansas 66251.

Q. Did you file a Verified Written Statement in this proceeding?

A. Yes, I did. It is Sprint Exhibit 3.0 and it is referred to herein as my Direct Testimony.

Q. What is the scope and purpose of your Supplemental Verified Written Statement, also known as Rebuttal Testimony?

A. The purpose of my Rebuttal Testimony is to respond the Direct Testimonies of the AT&T and Staff witnesses regarding the following Issues:

- Issue 43 (Transit Traffic Service Rate) – J. Scott McPhee (AT&T) and David Rearden (Staff);
- Issues 44 and 45 (TELRIC Pricing for Interconnection Facilities) – Patricia Pellerin (AT&T) and Dr. Qin Liu (Staff);
- Issues 46 and 47 (Cost Sharing of Interconnection Facilities) – Patricia Pellerin (AT&T) and Dr. Qin Liu (Staff); and,

- Issue 49 (Transition to TELRIC Pricing for Interconnection Facilities) – Patricia Pellerin and Carl Albright (AT&T) and Dr. Qin Liu (Staff).

Q. Is there an Issue addressed in your Direct Testimony that is not addressed in your Rebuttal Testimony?

A. Yes. I do not address Issue 33, regarding indemnification related to AT&T's provision of Transit Traffic Service to Sprint because the Parties have since resolved that Issue.

Q. Please summarize your Rebuttal Testimony.

A. AT&T's testimony is grounded upon an invented, fictitious distinction between what it refers to as the "CMRS Model" and the "CLEC Model" for interconnection. Nothing in the Communications Act of 1934 as amended by the Telecommunications Act of 1996 ("the *1996 Act*"), the FCC rules implementing Section 251 of the Act as codified in C.F.R. 47 Part 51 – Interconnection ("*FCC Rules*"), or the recent FCC *CAF Order*,[1] recognizes this invention; i.e., of one set of Section 251 rules and prices for interconnection applying to CMRS carriers, and another set of Section 251 rules and prices for CLECs. Sprint has been directly interconnected with AT&T since 1996. CMRS direct Interconnection <u>*is*</u> 251(c)(2)

[1] *In the Matter of Connect America Fund, et al*; WC Docket No. 10-90, et al; FCC 11-161; Report and Order and Further Notice of Proposed Rulemaking; Adopted October 27, 2011, Released November 18, 2011 (*"CAF Order"*).

Interconnection (See *First Report and Order*, Paragraphs 1012 and 1022 – 26)[2]. Sprint *is not* seeking to convert to a 47 C.F.R. § 251(c)(2) interconnection arrangement. The existing Interconnection Agreement on file with this Commission identifies the arrangements between the parties as being Section 251(c)(2) arrangements, Specifically, Sections 3 and 6 of the Agreement are labeled as follows:

3. **TRANSMISSION AND ROUTING OF TELEPHONE EXCHANGE SERVICE PURSUANT TO SECION 251(C)(2)**

6. **TRANSMISSION AND ROUTING OF ANDCOMPENSATION FOR EXCANGE ACCESS SERVICE PURSUANT TO SECION 251(C)(2)**

With respect to pricing of Interconnection Facilities under Section 251(c)(2), the pertinent distinction between the Parties' existing Interconnection arrangement and what Sprint now seeks, is that Sprint is seeking to implement its right to TELRIC pricing for DS1 or DS3 facilities to the extent these facilities are identifiable as being used for the purpose of Interconnection.

Interconnection is the mutual exchange of traffic between the parties' *networks* , rather than AT&T's further created fiction of merely the exchange of traffic between the parties' *end-users*. Contrary to AT&T's assertions Sprint *is not* seeking to obtain TELRIC pricing applied to any portion of a facility that is used for backhaul purposes**.**

[2] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996: Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers,* First Report and Order, 11 FCC Rcd. 15499 (1996) ("*First Report and Order").*

Under the *Talk America Decision*,[3] Sprint is entitled to TELRIC pricing for facilities that are used for the purpose of Interconnection, whereas AT&T intends to charge the much higher special access prices when facilities are used for this purpose. Although AT&T claims to offer TELRIC pricing, it imposes conditions that so restrict what "Interconnection" means as to make its offer meaningless.

Regarding Issue 43, AT&T's Transit Traffic Service is a 47 C.F.R. § 251(c)(2) obligation subject to TELRIC pricing. AT&T witness McPhee simply ignores the growing number of decisions that find transit is a 251(c) obligation subject to TELRIC pricing. Staff witness Reardon recognizes that public policy supports the Commission requiring that transit be provided at TELRIC and that the current AT&T transit rate is a more than 10-year old outdated cost-based rate. Sprint's position is that, to be consistent with federal law, the Commission needs to require AT&T to provide an updated TELRIC-based transit rate. Sprint has provided several benchmarks (including AT&T cost-based rates from other states) that the Commission can choose from to accomplish that purpose.

Regarding Issues 44 and 45, Sprint is entitled to obtain Interconnection Facilities at TELRIC prices from AT&T. Neither AT&T witness Pellerin nor Staff witness Dr. Liu disagree with that fundamental premise. There is also no dispute that Sprint

[3] *Talk America, Inc., Petitioner (No. 10-313) v. Michigan Bell Telephone Company dba AT&T Michigan Orjiakor Isiogu, et al., Petitioners (no. 10-329) v. Michigan Bell Telephone Company dba AT&T Michigan*; 131 S. Ct. 2254; 2011 ("*Talk America Decision"*).

should not receive TELRIC pricing for that portion of a facility used for backhaul. Pellerin and Dr. Liu, however, would impermissibly restrict the types of traffic that are Interconnection under federal law – and, therefore, whether a given facility that carries such traffic would even qualify as an Interconnection Facility that could be priced at TELRIC. Pellerin introduced, and Dr. Liu has adopted, a non-existent qualification to the definition of Interconnection in 47 C.F.R. § 51.5[4] that traffic must be "exchanged between the Parties' end-users." There is no basis under federal law to impose such a restriction. Interconnection includes the exchange of all traffic between the Parties' *networks* – not merely between their respective *end-users*. Mr. Felton's Rebuttal discusses this point in greater detail, addressing how the Pellerin and Dr. Liu non-existent qualification also improperly qualifies the statutory definitions of "telephone exchange service" and "exchange access" – the very categories of traffic that a requesting carrier is entitled to exchange between its network and the incumbent's network when the requesting carrier obtains 47 C.F.R. § 251(c)(2) Interconnection.

Dr. Liu would also appear to require Sprint to physically disconnect and re-arrange existing transmission circuits – even where the Parties are able to identify at the DS1 level exactly which circuits are used for any given purpose (i.e., Interconnection vs. backhaul). While Sprint does not agree that there is any reason it must physically "re-order" any existing facilities that are used for Interconnection simply to obtain TELRIC pricing, if the Commission should rule that Sprint must

[4] Section 51.5 states, "*Interconnection* is the linking of two networks for the mutual exchange of traffic. This term does not include the transport and termination of traffic."

re-order such facilities to implement a price change, as I state more fully in Issue 49, it must be made clear that Sprint, at its sole discretion, may determine exactly *which* Interconnection facilities it will re-order, as well as *when* Sprint may elect to do so. Stated another way, AT&T cannot force Sprint to convert any facilities at any time, much less require that all facilities must be converted before Sprint can obtain any TELRIC pricing.

Regarding Issue 46 and 47, the FCC has repeatedly and clearly held that the regulations regarding the pricing of dedicated transmission facilities preclude an ILEC from charging a wireless carrier for the portion of facilities on the wireless carrier's side of a POI to the extent the facilities are used to deliver the ILEC's traffic to the wireless carrier. While AT&T witness Pellerin and Dr. Liu point to prior Commission precedent, neither of them offer any explanation how such prior decisions have any effect in the face of clear FCC authority to the contrary. It remains Sprint's position that it is not only entitled to TELRIC pricing for facilities that it can demonstrate are used for Interconnection but, at a minimum, AT&T cannot charge Sprint for any portion of dedicated transmission facilities on the Sprint-side of a POI that are used to deliver AT&T traffic to Sprint.

Regarding Issue 49, it is Sprint's position that as long as the Parties can identify the portion of existing facilities that are used for Interconnection, as compared to backhaul, there is no reason that an administrative records billing change cannot be used to implement a price change, without going through the wholly unnecessary

step of tearing down and re-ordering any facilities. Again, AT&T witnesses Albright and Pellerin create a fiction that simply does not exist under federal law – i.e., that there is a "CMRS Interconnection Arrangement" (which does not get TELRIC pricing) and a CLEC arrangement, also referred to as a "251(c)(2) Interconnection" (which does get TELRIC pricing). Dr. Liu appears to accept AT&T's assertion that there are two distinct types of Interconnection and that in order for Sprint to obtain TELRIC pricing, Sprint must "transition" its existing "CMRS Interconnection Arrangement" via a grooming/re-ordering process. However, even Dr. Liu acknowledges that "whether to make the transition is a business decision that Sprint must make," but fails to recognize that AT&T's language would enable AT&T to commence the transition regardless of whether Sprint decides to transition any facilities or not. As further explained in greater detail in my Rebuttal testimony, if the Commission is inclined to include some form of "transition" language, at a minimum, it must clearly recognize Sprint's right to decide where and when it will continue the existing arrangement or transition facilities.

In summary, Sprint is a co-carrier with AT&T. This is in stark contrast to AT&T's view of itself as a provider or supplier of services, to which Sprint must subscribe to and pay AT&T for the privilege of exchanging traffic. AT&T is also making an artificial distinction between CMRS carriers and other carriers. It cannot be a coincidence that AT&T has a wireless affiliate, AT&T Mobility, which competes directly with Sprint in the CMRS market. Any anticompetitive conditions that

AT&T can place on Sprint, which directly increases Sprint's cost of doing business, directly helps AT&T Mobility.

Q. Are you sponsoring any exhibits to your Rebuttal Testimony?

A. Yes. I am sponsoring the following exhibit:

Exhibit RGF-6.1 – The FCC's *MAP Mobile Decision*.[5]

Exhibit RGF-6.2 – Transition Language Related Edits

II. ISSUES

Section V – Compensation Issues

Section V.C – Transit Traffic Compensation

Issue 43 [Section V.C(1)] – What is the appropriate rate that a Transit Service Provider should charge for Transit Traffic Service?

Q. What is Sprint's concern in Issue 43?

A. As discussed in my Direct Testimony, Sprint is requesting that AT&T provide Transit Traffic Service at TELRIC-based prices per 47 C.F.R. § 251(c)(2).[6]

[5] *MAP Mobile Communications, Inc., Complainant, v. Illinois Bell Telephone Company, Indiana Bell telephone Company, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, Wisconsin Bell, Inc., Pacific Bell Telephone Company, and Southwestern Bell Telephone, L.P., Defendants*; File No. EB-05-MD-013; DA 09-1065; Memorandum Opinion and Order; Adopted and Released May 13, 2009 ("*MAP Mobile Decision*").

[6] *Exhibit 3.0 of Randy G. Farrar*, Exhibit 3.0, at page 15.

A. AT&T Testimony

Q. On page 4, line 97, when answering the question, "Does anything in the 1996 Act explicitly require transiting," Mr. McPhee responds, "No." On page 4, line 97, Mr. McPhee states, "On the contrary, the FCC has repeatedly noted that nothing in the 1996 Act or in the FCC's rules or orders requires it to treat transiting as part of interconnection under section 251(c)(2)." Have any Federal Courts decided differently?

A. Yes, federal courts have concluded that transit is required by virtue of AT&T's routing obligations under Section 251(c)(2). Sprint's position is that a proper interpretation of the *1996 Act* and the *FCC Rules* require that AT&T provide Transit Traffic Service at TELRIC-based rates as a 251(c)(2) obligation. The following two federal courts clearly explain why this is correct.

First, in the *District of Nebraska Decision*,[7] the Court stated:

> The parties dispute whether an ILEC's interconnection obligations under Section 251(c)(2) include a duty to provide transit service when an interconnecting CLEC seeks to indirectly interconnect with a third carrier.

[7] *Qwest Corporation, Plaintiff, v. Cox Nebraska Telecom, LLC, Nebraska Public Service Commission, Gerald L. Vap, in their official capacities as Commissioners of the Nebraska Public Service Commission, Anne C. Boyle, in their official capacities as Commissioners of the Nebraska Public Service Commission, Tim Schram, in their official capacities as Commissioners of the Nebraska Public Service Commission, Rod Johnson, in their official capacities as Commissioners of the Nebraska Public Service Commission, and Frank E. Landis, Jr., in their official capacities as Commissioners of the Nebraska Public Service Commission, Defendants*; In the United States District Court for the District of Nebraska; 4:08CV3035; Memorandum Opinion; dated December 17, 2008 ("*District of Nebraska Decision*").

> The plain meaning of the statute's text establishes Congress's clear intent to impose such a duty on ILECs.
>
> The Act does not define interconnection, but the unambiguous language of Section 251 demonstrates that an ILEC must provide transit under Section 251(c)(2).[8]
>
> ***
>
> … Because transit service is essential to indirect interconnection, the text of Section 251(a) strongly indicates that an ILEC is required to provide transit under the Act.
>
> When Section 251(a) is read in conjunction with Section 251(c)(2), it is clear that Congress imposed this obligation in Section 251(c) of the Act. …. Accordingly, an ILEC must provide transit service when a CLEC interconnects with the ILEC for the purpose of indirectly interconnecting with a third carrier. Otherwise, the indirect interconnection could not be used "for the transmission and routing of telephone exchange service and exchange access," an ILEC could frustrate the flow of traffic and prevent carriers from indirectly interconnecting. Such a finding would render the "indirectly" language in Section 251(a) meaningless. The clear language of Section 251 requires ILECs to directly interconnect with competitors and facilitate competitors' ability to indirectly interconnect.[9]
>
> ***
>
> The Court's finding is consistent with the purpose of the Act. Congress passed the Act to encourage competition among telephone service providers. …. Ensuring that carriers can obtain transit services at cost-based rates facilitates this goal. …. Construing Section 251 in a manner that requires ILECs to provide transit service furthers the Act's purpose.[10]
>
> ***
>
> …. Nonetheless, the clear language of Section 251 requires an ILEC to provide transit service pursuant to its interconnection obligations under Section 251(c)(2).[11]

[8] *District of Nebraska Decision*, at page 6.
[9] *District of Nebraska Decision*, at page 7.

[10] *District of Nebraska Decision*, at page 9.

[11] *District of Nebraska Decision*, at page 11.

Second, in the *District of Connecticut Decision*,[12] the Court found that transit was a § 251(c) obligation. Specifically, the Court stated:

> Reviewing the applicable FCC regulations and decisions as well as the relevant case law, the Court must conclude that interconnection under section 251(c) includes the duties to provide indirect interconnection and to provide transit service.[13]
>
> ***
>
> In addition, the Court cannot find that the FCC's failure to definitively rule on the provision of TTS [Transit Traffic Service] as an affirmative decision to exclude TTS from the description of interconnection.[14]
>
> ***
>
> By AT&T Connecticut's reading of the statute, if the only way for two new CLECs to connect were through the preestablished hardware and equipment of an ILEC with whom the CLECs could not reach an agreement to provide TTS, the CLECs would be forced to create a new infrastructure redundant to what the ILEC already possesses. …. This redundancy is precisely what the 1996 Act sought to eliminate.[15]
>
> ***
>
> AT&T Connecticut also argues that TTS cannot constitute interconnection because it does not involve the mutual exchange of traffic as required by 47 C.F.R. § 51.5. ….
>
> AT&T Connecticut misreads the regulation. …. A plain reading of the regulation does not require that there be the mutual exchange of traffic originating within each LEC's network. …. AT&T Connecticut's reading of

[12] *The Southern New England Telephone Company d/b/a AT&T Connecticut, Plaintiff, v. Anthony J. Perlermino, Kevin Delgobbo and John W. Betoski III, in their official capacity as Commissioners of the Connecticut Department of Public Utility Control*; United States District Court, District of Connecticut; 3:09-cv-1787(WWE); Memorandum of Decision; dated May 6, 2011 ("*District of Connecticut Decision*").

[13] *District of Connecticut Decision*, at page 8.

[14] *District of Connecticut Decision*, at page 8.

[15] *District of Connecticut Decision*, at page 9.

the regulation would add language that does not exist. Namely, that the traffic is originated within the AT&T Connecticut system. As an incorrect reading of the regulation, the Court will reject it.[16]

***

Because the DPUC's decision is not inconsistent with the 1996 Act or the FCC's regulations, the DPUC had the authority to conclude that the interconnection obligations included the obligation to provide TTS. 47 U.S.C. § 251(d)(3).[17]

Q. On page 5, line 118, Mr. McPhee states, "This Commission has already concluded that transit service is not subject to TELRIC-based pricing, and it should reaffirm that conclusion here."

On page 7, line 157, Mr. McPhee states, "In its Second Interim Order in Docket 96-0486/96-0560 (Consolidated)(the "TELRIC Investigation"), dated February 17, 1998, the Commission directed AT&T Illinois (then Ameritech Illinois) to include transit service language in its compliance tariff and to provide supporting cost studies. The tariffed transit rates and supporting cost study filed by AT&T Illinois in accordance with this directive … were subject to Commission review in Docket No. 98-0396 (the "TELRIC Compliance Case")."

On page 7, line 171, Mr. McPhee states, "AT&T has made no additional modifications to its tariffed transit service rates since then. Accordingly, the

[16] *District of Connecticut Decision*, at page 10.

[17] *District of Connecticut Decision*, at page 11.

currently effective transit tariffed rates are the same as the ones the Commission approved in Docket No. 98-0396."

Finally, on page 8, line 182, Mr. McPhee states, "In addition, in a June 14, 2001, Arbitration Decision, the Commission approved for use the same tariffed transit rates in an arbitration between AT&T Illinois and Big River Telephone in Docket No. 11-0083."

What is your response to these statements by Mr. McPhee?

A. I find it puzzling that Mr. McPhee goes to great lengths not to characterize these Transit Traffic Service rates as TELRIC-based rates, when, (albeit now outdated) these rates were intended by the Commission to be, in fact, TELRIC-based rates.

First, as Mr. McPhee notes, the source of AT&T's current Transit Traffic Service rates is the Commission's 1998 – 2001 TELRIC proceedings.

Second, the Commission's *Big River Arbitration Decision*[18] explicitly states that the current AT&T Transit Traffic Service rates are, in fact, TELRIC-based. Specifically, the *Big River Arbitration Decision* states:

> The Commission, Staff states, is offered two choices here. The first is to adopt a rate based on Illinois-specific TELRIC studies that it and the Staff have thoroughly reviewed in several contested proceedings. The second is to

[18] *Illinois Bell Telephone Company, Petition for Arbitration of Interconnection Agreement with Big River Telephone Company, LLC.*; State of Illinois, Illinois Commerce Commission Docket No. 11-0083; Arbitration Decision; dated June 14, 2011 ("*Big River Arbitration Decision*").

> adopt a rate from another state, supported by no cost information. In Staff's view, the Commission should follow the former course.[19]

The "proceedings" Staff refers to are, of course, the 1998 – 2001 TELRIC proceedings. Thus, contrary to Mr. McPhee's implications, AT&T's current, Commission-approved rates for Transit Traffic Service were intended to be TELRIC-based.

Q. Has the Commission ever ruled that Transit Traffic Service rates are *not* subject to 47 C.F.R. § 251(c)(2)?

A. No. Contrary to Mr. McPhee's implication, in the *Big River Arbitration Decision* the Commission did *not* rule that transit service was *not* subject to 47 C.F.R. § 251(c)(2). Rather, the Commission ruled that it did not have to make a decision, because AT&T had already agree to provide transit service subject to its tariffed (i.e., TELRIC-based) rates. Specifically, the *Big River Arbitration Decision* states:

> Staff's position is that the Commission need not reach this issue, since AT&T Illinois has agreed to provide transit services to Big River.[20]

Q. Base on the above discussion, what do you conclude concerning TELRIC-based pricing for AT&T's Transit Traffic Service?

A. This Commission has never explicitly ruled that Transit Traffic Service is subject to 47 C.F.R. § 251(c)(2), but to avoid repeatedly having to address this issue it should, consistent with federal law, affirmatively state that transit is a 251(c)(2) obligation. The Commission has required and established TELRIC-based rates for Transit

[19] *Big River Arbitration Decision*, at page 33.
[20] *Big River Arbitration Decision*, at page 38.

Traffic Service since the 1998 – 2001 timeframe, and the ultimate question now becomes, what is the appropriate TELRIC-based rate today, in 2013?

Q. Are the Commission approved, TELRIC-based rates established in the 1998 – 2001 timeframe appropriate in 2013?

A. No. As I discussed in my Direct Testimony,[21] rates established in 2001 *cannot* be TELRIC-compliant in 2013.

Q. Why are the rates established in the 2001 timeframe not TELRIC compliant in 2013?

A. Because the *FCC Rules* which define the criteria for a TELRIC compliant rate prohibit such an interpretation. Specifically, 47 C.F.R. § 51.505(b)(1) states:

> *Efficient Network Configuration.* The total element long-run incremental cost of an element should be measured based on the use of the **most efficient telecommunications technology currently available and the lowest cost network configuration**, given the existing location of the incumbent LEC's wire centers. (Bold emphasis added.)

The key phrase is "current technology available." In the 1998 – 2001 timeframe, the technology used in every TELRIC cost study with which I am familiar assumed the use of digital circuit switches, such as the Nortel DMS-100/200 or Lucent 5ESS. That appears to be the case of the rates developed in Docket No. 98-0396. Circuit switching was, in fact, the "most efficient telecommunications technology currently available" at that time.

[21] *Exhibit 3.0 of Randy G. Farrar*, Exhibit 3.0, at page 24.

However, that is simply no longer the case. To my knowledge, no carrier has installed such a switch in more than ten years. All recent and current switch installations involve the switching technology referred to as packet switching or softswitches.[22] Based on my extensive cost model experience, packet switching is significantly less costly than circuit switching. AT&T acknowledged this undeniable fact in its October 13, 2008 letter to the FCC.[23]

Simply put, any transit rate developed more than a decade ago based upon outmoded circuit switched technology cannot, by definition, and by statute, be considered TELRIC-compliant. AT&T's current tariffed rates are not TELRIC-compliant.

Q. What if AT&T claims that because it has circuit based switches currently in place, with no intention to replace then with up-to-date packet technology, the circuit switches represent "forward-looking" technology?

A. I have seen AT&T make this very argument in another jurisdiction. However, it is without merit. Note that in 1996, when the TELRIC rules, and 47 C.F.R. § 51.505(b)(1) in particular, were first created circuit based switching was not the only technology then employed by the ILECs. In that timeframe, some ILECs likely had obsolete pre-digital, pre-circuit based technologies still in place.

[22] Circuit-based switching establishes a dedicated electronic circuit for the duration of each call. A softswitch can combine voice and data traffic into data "packets," which is more efficient than individual electronic circuits.
[23] *Exhibit 3.0 of Randy G. Farrar*, Exhibit RGF-3.1 ("*AT&T FCC Letter*").

However, the *FCC Rules* explicitly excluded including such obsolete technologies or any "embedded costs" from its TELRIC pricing regime.

Unquestionably, today only packet or softswitches can be considered "forward-looking" switching technology. Even AT&T acknowledged this fact in the *AT&T FCC Letter*. AT&T affiliates are apparently employing packet switches, particularly in its modern, up-to-date wireless network (i.e., AT&T Mobility) and its AT&T Corporation entity. The fact that AT&T may not be updating its legacy wireline networks is irrelevant. AT&T should not be rewarded for not updating its wireline network with a higher rate for Transit Traffic Service.

Q. On page 10, line 231, Mr. McPhee states, "Just last year, in fact, when the Commission ordered the same transit rate that AT&T Illinois is proposing here be included in Big River's ICA in Docket No. 11-0083, to which I referred above, the Commission rejected the rate proposed by Big River precisely because that rate was not based on Illinois' cost, while AT&T Illinois' proposed rate was." What is your response to this statement by Mr. McPhee?

A. The facts are different in this proceeding. In the *Big River Arbitration Decision*, the Commission was faced with two options, TELRIC-based rates established in 2001, or rates proposed by Big River that were unsupported in any manner. Specifically, the *Big River Arbitration Decision* states:

> … Staff argues, Big River provides no support for its proposed rate. Big River does not explain whether the rate it proposes is cost based or what cost methodology if any was used to develop the rate; nor does it provide cost

> support of any description for its proposed rate. Big River provides no evidence …. [24]
>
> ***
>
> The Commission, Staff states, is offered two choices here. The first is to adopt a rate based on Illinois-specific studies that it and the Staff have thoroughly reviewed in several contested proceedings. The second is to adopt a rate from another state, supported by no cost information. In Staff's view, the Commission should follow the former course.[25]

Q. How is this proceeding different?

A. First, I have demonstrated that the current TELRIC-based rate for Transit Traffic Service is unquestionably no longer TELRIC-compliant. Second, Sprint has proposed a rate based on (1) AT&T's own fact-based statements to the FCC, and (2) on state commission-approved AT&T cost-based rates, derived from contested proceedings.

Q. Since the existing "TELRIC-based" rates for Transit Traffic Service are no longer TELRIC-compliant, what options does the Commission have to establish FCC-compliant TELRIC-based rates?

A. As discussed in my Direct Testimony,[26] in lieu of updated Illinois-specific TELRIC studies, there are three benchmarks specific to AT&T that can be used to develop a rate for Transit Traffic Service:

[24] *Big River Arbitration Decision*, at page 31.

[25] *Big River Arbitration Decision*, at page 33.

[26] *Exhibit 3.0 of Randy G. Farrar*, at pages 29 – 38.

a) The *AT&T FCC Letter* supports a finding that the TELRIC cost of transit is no more than $0.00017;

b) AT&T's cost-based transit rates in four other states[27] are as low as $0.000454, to support a finding that the TELRIC cost of transit in Illinois (where there is a similarly extensive AT&T network) is no more than $0.000454; and,

c) AT&T's voluntarily adopted reciprocal compensation rate in most of its states of $0.0007 per minute, supports a finding that the TELRIC cost of transit is no more than $0.00035, which represents the estimated costs when you exclude end-office switching function from a $.0007 reciprocal compensation rate that otherwise includes all functions.

The above cost-based information is ample evidence that the current AT&T rates for Transit Traffic Service are no longer TELRIC-compliant.

Q. Albeit not transit rates, is there any precedent for this Commission to adopt a TELRIC rate based upon cost studies performed in another state?

A. Yes. In fact, in the TELRIC proceeding already discussed, Docket No. 98-0396, the Commission adopted a Texas cost-based rate on an interim basis. Specifically, the Commission stated:

> Our merger order expressly required Ameritech [i.e., AT&T Illinois] to import to Illinois the rates agreed to in Texas for interim, shared transport. We gave

[27] *Exhibit 3.0 of Randy G. Farrar*, at page 33, Table 1, provides cost-based rates for transit service in three states, California, Michigan, and Texas. Connecticut was added in response to Staff Data Request DTR 1.2.

> Ameritech the option of filing Illinois specific rates *providing the rates are reasonably comparable to the importation of Texas rates*. Instead, Ameritech filed a tariff with rates that are more than 16 times higher than the Texas rates. We reject Ameritech's argument that the rates it filed in Texas were "incorrect" because the rates overlooked various costs that should have been recovered. In the first place this is simply a collateral attack on Texas results, which is not appropriate in this forum. …. Our Merger Order clearly specified that the Texas rates would be "the rates agreed to in Texas" – not some hypothetical set of Texas rates. ….[28] (Italics in original.)

Q. Is it possible that a currently TELRIC-compliant rate for Transit Traffic Service could be ten (10) times higher in Illinois than in another AT&T state?

A. No, such a result is inconceivable. AT&T is one of the largest corporations in the world, with economies of scale and scope unmatched by most. AT&T's size enables it to purchase equipment on a nationwide basis, even though it consists of many different legal entities. If there are any noticeable efficiencies between the different operating entities, AT&T Illinois should have lower cost due to its size and economies compared to other AT&T LEC entities.

B. Staff Testimony

Q. On page 17, line 369, Mr. Rearden states, "The Commission has two decisions to make regarding this issue. It must first decide whether Transit Traffic is a service that AT&T Illinois must provide under federal law." On page 18, line 405, Mr. Rearden states, "To date, it is not entirely clear whether the

[28] *Illinois Commerce Commission, On Its Own Motion Investigation into the compliance of Illinois Bell Telephone Company with the order in Docket No. 96-0486/0569 Consolidated regarding the filing of tariffs and the accompanying cost studies for interconnection, unbundled network elements and local transport and termination and regarding end to end unbundling issues*; Illinois Commerce Commission Docket No. 98-0396; 2001 Ill PUC Lexis 1249, page 40.

Commission has found transit rates to fall under the requirements of Section 251 or 252." What is your response to these statements by Mr. Reardon?

A. I agree that the Commission has not explicitly stated that Transit Traffic Service is a 251(c)(2) obligation. However, as I discussed above, the Commission has required TELRIC-based prices for Transit Traffic Service since at least 2001. At a minimum, this appears to be an implicit acknowledgement that Transit Traffic Service is subject to 47 U.S.C. §§ 251 and 252.

Q. On page 17, line 381, Mr. Rearden states, "As it stands, it seems obvious that AT&T Illinois' current rate [for Transit Traffic Service] is well above current, forward-looking TELRIC. Therefore, the public interest is served by reducing the Transit Traffic Service [rate] closer to cost." On page 18, line 391, Mr. Rearden states, "I recommend that the public interest is served by requiring AT&T Illinois to provide the service under TELRIC rates." Finally, on page 18, line 408, Mr. Reardon states, "The Commission's choice then may be between a TELRIC rate that is based on outdated cost studies or a non-Illinois, non-TELRIC rate that is a proxy for TELRIC in this state. The Commission could continue the current, albeit non-TELRIC, rate equal to $0.005034 per MOU, or it could decide to use the proxy reciprocal compensation rate. Further, the Commission may want to initiate an investigation into directly estimating the TELRIC of Transit Service under current technologies, costs and market conditions." What is your response to these statements by Mr. Reardon?

A. While Mr. Rearden suggests there are multiple options, using the "non-TELRIC, rate equal to $0.005034 per MOU," "that is based on outdated cost studies," is, on its face, contrary to his comments that the public interest is served by requiring TELRIC based rates and AT&T's current pricing needs to be reduced in order to be TELRIC compliant. It is also not clear why Mr. Rearden refers to use of TELRIC rates from another state as "non-TELRIC" rate given that the rates I provided from other states are in fact AT&T TELRIC transit rates for such states. While Mr. Reardon agrees that the Commission could "use the proxy reciprocal compensation rate" he does not specify whether he means the total $.0007 rate or one-half of that rate, $0.00035 as Sprint proposes.

A more accurate summary of the Commission's options that would be consistent with federal law is:

- Use the rate support that AT&T represented to the FCC as the per minute costs of soft-switching in the range of $0.00010 and $0.00024 to support the use of the mid-range amount of $0.00017 as a cost-based proxy;
- Use an AT&T TELRIC transit rate from another state as a cost-based proxy;
- Use one-half of the $.0007 reciprocal compensation rate – $0.00035 – as a cost-based proxy; or,
- Use any one of the above three proxies on an interim basis, subject to true-up, and open a proceeding in which AT&T is required to establish an

updated, TELRIC transit rate supported by an appropriate forward-looking technology based cost-study.

Section V.D – Interconnection Facilities Pricing and Cost Sharing

Issue 44 [Section V.D(1)] – Should Interconnection facilities provided by AT&T be priced at cost based (i.e., TELRIC) rates?

A. AT&T Testimony

Q. What is Sprint's concern in Issue 44?

A. As discussed in my Direct Testimony, Sprint is requesting TELRIC-based pricing for facilities used as Interconnection Facilities as required by 47 C.F.R. § 251(c)(2).[29] The *Talk America Decision* reaffirms a requesting carrier is entitled to TELRIC-based pricing for facilities used for Interconnection. AT&T is still trying to avoid its obligation to provide TELRIC-based prices by creating new conditions that limit the scope of what constitutes Interconnection.

Q. How does AT&T shift the focus of Issue 44?

A. While the focus of Issue 44 is simply whether or not Sprint is entitled to automatically receive TELRIC pricing for its existing Interconnection Facilities,

[29] *Exhibit 3.0 of Randy G. Farrar*, Exhibit 3.0, at page 38.

AT&T has shifted the focus to whether Sprint's existing facilities are "Interconnection" facilities that are subject to TELRIC pricing.

Q. On page 37, line 820, Ms. Pellerin states, "Sprint is entitled to TELRIC-based pricing only on facilities that are (1) used exclusively for Interconnection as the FCC defined the term in 47 C.F.R. § 51.5." What is your response to Ms. Pellerin's statement?

A. Sprint agrees that TELRIC based prices are only appropriate for that portion of facilities that are used for Interconnection. Where Ms. Pellerin and AT&T go astray is by interjecting an overbroad concept of "exclusive use" that simply is not required under federal law, much less supported by the *Talk America Decision.*

Q. Does the *Talk America Decision* support a pro-rata application of TELRIC to Interconnection Facilities?

A. Yes. Sprint agrees that facilities exclusively used for backhaul are not subject to TELRIC-based pricing. However, as to high capacity facilities that may be used on a subdivided basis for Interconnection and backhaul, it is absolutely consistent to require pro-rata TELRIC pricing for that portion that is used for Interconnection. What AT&T fails to mention, or Dr. Liu apparently fails to appreciate, is that when a high capacity facility is used to carry both Interconnection and backhaul traffic, the high capacity facility is subdivided into discrete sub-capacity (i.e., a DS3 consists of 28 DS1s) and the individual use of any sub-capacity (DS1) is dedicated to a given purpose (i.e., either Interconnection or backhaul, but not both).

The *Talk America Decision* makes it clear that Sprint is entitled to entrance facilities used for interconnection at cost-based rates. Specifically, the *Talk America Decision* states:

> Petitioners contend that AT&T must lease its existing entrance facilities for interconnection at cost-based rates. We agree.[30]

The word "exclusively" does not appear in the *Talk America Decision.* In fact, consistent with Sprint's explanation above, the *Talk America Decision* recognizes that facilities are often used for multiple purposes. Specifically, the *Talk America Decision* states:

> But the FCC emphasized in both orders that it 'd[id] not alter" the obligation on incumbent LECs under §251(c)(2) to provide facilities for interconnection purposes. *Triennial Review Order* ¶366; *Triennial Review Remand Order* ¶140. Because entrance facilities are used for backhauling and interconnection purposes, the FCC effectively ***eliminated only unbundled access to entrance facilities for backhauling purposes*** – a nuance it expressly noted in the first *Triennial Review* order. *Triennial Review Order* ¶365. That distinction is neither unusual nor ambiguous.[6] …. (Bold emphasis added.)
>
> We are not concerned that the *Triennial Review Remand Order* did not expressly distinguish between backhaul and interconnection, though AT&T makes much of that fact. ….
>
> [6] The Commission has long recognized that a single facility can be used for different functions and that its regulatory treatment can vary depending on its use. …. [31]

[30] *Talk America Decision,* page 6.

[31] *Talk America Decision,* page 15.

It would be contrary to the intent of the Supreme Court for this Commission to find that entrance facilities must be used "exclusively for Interconnection," when the Supreme Court made no distinction and acknowledged that joint use is common.

While this is really responsive to Issue 45, it is worth noting here as well. To the extent a pricing distinction must be drawn (based upon the multiple, segregated purposes to which a single higher capacity facility may be used), such distinction must be implemented in a way that a) maintains the industry practice of utilizing high-capacity facilities for multiple, segregated purposes, and b) adjusts the overall facility price so that the competing carrier is only charged an applicable TELRIC price for that portion of the facility used for the purpose of Interconnection.

Q. On page 37, line 832, Ms. Pellerin expands her "exclusively for Interconnection" argument by stating, "However, the facilities Sprint leases from AT&T Illinois are eligible for TELRIC-based pricing only when they are used exclusively for Interconnection, *i.e., for the mutual exchange of traffic between the parties' end users*." [Emphasis added]. What is your response to this statement by Ms. Pellerin?

A. I have already discussed that there is no support for her "exclusively for Interconnection" argument. However, she has mis-stated the definition of the term "Interconnection" as it is used by the FCC. Specifically, 47 C.F.R. § 51.5 defines Interconnection as follows:

> *Interconnection*. *Interconnection* is the linking of two networks for the mutual exchange of traffic.

Note that the definition is *not* "for the mutual exchange of traffic between the parties' end users" as AT&T would like it to read. In other words, "Interconnection," by definition, is *not* limited to traffic between the Parties' end users. This misrepresentation of the 47 C.F.R. § 51.5 "Interconnection" definition is the linchpin of many of AT&T's positions and is addressed in greater detail by Sprint witness Mark Felton.

Q. On page 37, line 834, Ms. Pellerin states, "As I discussed with respect to Issue 49, to qualify for TELRIC-based pricing, Sprint will first be required to lease Interconnection Facilities that are separate from the transport facilities used for backhaul and other forms of traffic that are not eligible for being sent over TELRIC-priced Interconnection Facilities." What is your response to this statement by Ms. Pellerin?

A. This topic is discussed in detail under Issues 46/47. While I will not repeat the entire discussion, there is absolutely no language in the *1996 Act*, the *FCC Rules*, the *CAF Order*, or the *Talk America Decision* that supports Ms. Pellerin's opinion that "Sprint will first be required to lease Interconnection Facilities that are separate from the transport facilities used for backhaul and other forms of traffic that are not eligible for being sent over TELRIC-priced Interconnection Facilities."

B. Staff Testimony

Q. On page 65, line 1624, Dr. Liu states, "Sprint proposed language improperly assumes away all the necessary steps it must take before it may receive cost-based rates for facilities used exclusively for interconnection and thus should be rejected." What is your response to this statement by Dr. Liu?

A. Again, this topic is discussed in detail under Issues 46/47. While I will not repeat the entire discussion, I find it troubling that Dr. Liu also uses the term "exclusively" (which she uses repeatedly throughout her testimony.) The term "exclusively" cannot be found in the *Talk America Decision*, much less in any context that would preclude a record-keeping price change to properly reflect the application of cost-based pricing to that portion of a high-capacity facility that is in fact being used for the purposes of Interconnection.

Q. On page 41, line 1013, Dr. Liu states that an ILEC's duty to provide cost-based Interconnection facilities "is limited to facilities used exclusively for interconnection (i.e., for the mutual exchange of traffic between the parties)" and then cites the following passage from the *Talk America Decision:*

> **The Commission [FCC] explains that the issue in these cases did not arise until recently—when it initially eliminated unbundled access to entrance facilities in the *Triennial Review Order*. Until then, the Commission [FCC] says, a competitive LEC typically would elect to lease a cost-priced entrance facility under §251(c)(3) since entrance facilities leased under §251(c)(3) could be used for any purpose—*i.e.*, both interconnection and backhauling—but <u>entrance facilities leased under §251(c)(2) can be used only for interconnection. We see no reason to doubt this explanation</u>. […]**

> **The *Triennial Review Remand Order* makes clear that an incumbent is not categorically obligated to make entrance facilities available at cost-based rates. Rather, <u>that obligation [providing entrance facilities at cost-based rates] exists only when entrance facilities are being used as "interconnection facilities."</u> [*Emphasis added by Dr. Liu*].**

Do you agree that the above passage from the Talk America Decision either created or imposes an "exclusive use" requirement that relieves an incumbent LEC from its obligation to provide cost-based rates on that portion of a high-capacity facility that "are being used as 'interconnection facilities'"?

A. Absolutely not. As previously explained, the *Talk America Decision* clearly states that it is "recognized that a single facility can be used for different functions and that its regulatory treatment can vary depending on its use." Further, as explained in greater detail in Issue 45, the Parties have a long-standing experience of adjusting Special Access prices on high capacity facilities to reflect credits associated with the use of such facilities for Interconnection purposes; and, even AT&T's Special Access tariff recognizes that Special Access prices for facilities bought under the tariff may be subject to adjustment based upon the use of the facility at a DS1 level.

Q. What is wrong with Dr. Liu's interpretation of the *Talk America Decision* that she has cited for her position that a facility must be used exclusively for Interconnection in order for it to be subject to any cost-based pricing?

A. Quite simply, she has read the passage out of context and with no regard for how the industry actually implements regulatory-driven pricing adjustments to Special Access high capacity facilities. When read in the context of a) what is technically feasible, b) how are regulatory-driven pricing adjustments actually implemented, c)

how high-capacity facilities are actually used, and d) what interpretation furthers the pro-competition goals of the Act, the passage cited by Dr. Liu stands for the very simple proposition that, as to a high-capacity facility that is used for multiple purposes, a competing carrier is only entitled to cost-based rates for the portion of the facility that is used for the purpose of Interconnection.

Q. On page 67, line 1678, Dr. Liu states, "Sprint is only eligible for cost-based rates for facilities used exclusively for interconnection. So it seems that it is necessary to physically disconnect and/or rearrange existing transmission circuits so that transmission facilities used for Section 251(c)(2) interconnection are separated from other transmission facilities." What is your response to this statement by Dr. Liu?

A. Again, Dr. Liu's entire position is based on the term "exclusively," which cannot be found in the *Talk America Decision*. Without this artificial distinction grafted into the *Talk America Decision*, there is no basis or need to "physically disconnect and/or rearrange existing transmission circuits." Again, as discussed in detail in Issue 45, all that is required is appropriate implementation of the applicable TELRIC billing rates for that portion of facilities that are used for Interconnection, leaving the pro-rata pricing on the portion used for backhaul unchanged.

Q. On page 68, line 1699, Dr. Liu states, "AT&T contends that Sprint is not entitled to obtain facilities at cost-based rates unless the facilities are (i) used solely for interconnection and (ii) ordered pursuant to the parties' ICA. Mr.

Farrar calls these conditions onerous. I disagree and fail to see anything onerous in either requirement." What is your response to this statement by Dr. Liu?

A. What is truly "onerous" is that AT&T's application of the term "Interconnection" is so limited that in order to receive TELRIC pricing a requesting carrier must essentially build an unnecessary, duplicative network, much of it leased from AT&T – which is exactly what Congress, the FCC and various authorities make clear is not appropriate.

Q. On page 69, line 1712, Dr. Liu states, "Sprint is not forced to establish Section 251(c)(2) interconnection and is free to exchange traffic with AT&T under the existing non-Section 251(c)(2) interconnection arrangement on a negotiated business to business basis. Whether to make the transition is a business decision that Sprint must make." What is your response to this statement by Dr. Liu?

A. Sprint does agree with Dr. Liu that this is a Sprint business decision. As I will address further, unfortunately, Dr. Liu did not appreciate that some of AT&T's proposed language can be construed to take this decision out of Sprint's hands. While we do not agree with AT&T's transition language and Dr. Liu's adoption of such language, at a minimum, some modifications would need to be made to address this point, which I address in Issue 49.

Q. On page 69, line 1728, Dr. Liu states, "The benefit of such [Section 251(c)(2)] right is apparent for a new market entrant, but less so for a well-established carrier (such as Sprint) with well-established interconnection arrangements …. If Mr. Farrar finds the transition to a Section 251(c)(2) interconnection arrangement to be economically infeasible for Sprint, it does not follow that it is economically infeasible or meaningless for a new market entrant." What is your response to this statement by Dr. Liu?

A. Frankly, I find Dr. Liu's opinions concerning 47 U.S.C. § 251(c)(2) quite troubling. 47 U.S.C. § 251(c)(2) applies to all carriers, including requesting CMRS carriers such as Sprint. Whether they are brand new carriers or have been in the market for many years, there simply is no distinction concerning how a requesting carrier obtains Interconnection based on length of service. Sprint has all the rights assumed for any carrier under 47 U.S.C. § 251(c)(2). Her surprising opinion that such rights are "less apparent" for Sprint is completely unsupportable and simply contrary to the express language of the Act.

Q. On page 70, line 1739, Dr. Liu concludes Issue 44 by stating, "I agree with AT&T that Sprint is not entitled to obtain transmission facilities at cost-based rates unless the transmission facilities are used exclusively for interconnection and ordered pursuant to the ICA." What is your response to this statement by Dr. Liu?

A. Again, this topic is discussed in detail above and under Issues 46/47. Here is yet another example of Dr. Liu using the term "exclusively." As already stated, it cannot be found in the *Talk America Decision*.

Issue 45 [Section V.D(2)] – If the answer to V.D(1) is yes, should Sprint's proposed language governing Interconnection facilities / Arrangements and rates be included in the Agreement?

A. AT&T Testimony

Q. What is Sprint's concern in Issue 45?

A. As discussed in my Direct Testimony, Sprint is entitled to obtain TELRIC pricing treatment for Interconnection Facilities, even when the underlying transport facility is used for both Interconnection purposes and backhaul purposes.[32] This simply means that Sprint receives TELRIC pricing on a DS1 pro-rata basis.

Q. On page 38, line 859, Ms. Pellerin states, "It is unclear what Sprint's term 'DS1/DS1 equivalents basis' means. Moreover, the Price Sheet is clear with respect to the separate application of DS1 and DS3 rate elements." What is your response to this statement by Ms. Pellerin?

A. As discussed in my Direct Testimony, the phrase "DS1/DS1 equivalents basis" simply means that the TELRIC rates for DS1 (or DS3) Interconnection facilities

[32] *Exhibit 3.0 of Randy G. Farrar*, Exhibit 3.0, at page 41.

will be equal to the TELRIC DS1 (or DS3) rates for Entrance Facilities and Interoffice Transport rates on the Pricing Sheets as already determined by the Commission. Also, Sprint's proposal to apply the price of the Interconnection Facility based on percentage usage for Interconnection versus backhaul is easy to do, based on the DS1 equivalent prices for TELRIC-based prices and tariff prices for facilities. As explained below, the concept of adjusting high-capacity Special Access pricing (e.g. DS3 and above) at the DS1 level – based upon the "use" of such DS1 – is familiar to AT&T and is currently being used in multiple contexts.

Within AT&T's legacy BellSouth 9-state territory, for the purpose of calculating a 50% shared facility credit that AT&T issues Sprint on Interconnection Facilities that ride high-capacity facilities purchased out of AT&T's access tariff, AT&T and Sprint have an established periodic process. That process involves the Parties' respective billing representatives meeting on a quarterly basis to identify all of the Interconnection Facilities that are in place in a particular state, applying a DS1-equivalent basis, and determine the 50% amount of the facility charge for which Sprint receives a shared facility credit in that state. Similarly, under the Parties' existing Illinois Interconnection Agreement, the facilities purchased out of the access tariff that are used for Interconnection are subject to billing adjustments that result in a net reduction of such facility costs to reflect AT&T's use of the facilities. The facilities that were ordered out of AT&T's access tariffs which were subject to the above-described discounts were not subject to any "transition" procedure in order for the shared facility discount processes to be applied. The facilities are

ordered out of the tariff, and any applicable sharing credit is applied as a result of the Parties' respective Interconnection Agreements. This is how such adjustments are routinely implemented in the industry.

Finally, even AT&T's Special Access tariff contains provisions that apply different rates (Special Access vs. Switched Access) rates at the DS1 level based upon the purpose for which a given DS1 is used.

A similar process can easily be adapted and applied to adjust Special Access vs. TERLIC facility pricing based upon the number of DS1s that are specifically identifiable as dedicated Interconnection DS1s. AT&T is simply refusing to do so in this instance because accurate pricing will result in a reduction in AT&T's facility revenues; i.e., from 100% Special Access pricing to reduced prices based upon an applicable "use-pricing" apportionment between TELRIC for Interconnection / Special Access for backhaul.

Q. On page 39, line 871, Ms. Pellerin states, "Neither Sprint nor AT&T Illinois should be automatically entitled to different rates without amending the ICA." What is your response to this statement by Ms. Pellerin?

A. This is simply another obstacle AT&T is placing to prevent Sprint from realizing future changes to TELRIC-based pricing on a timely basis. Again, because of AT&T's reluctance to provide TELRIC-based prices, and its imposition of onerous

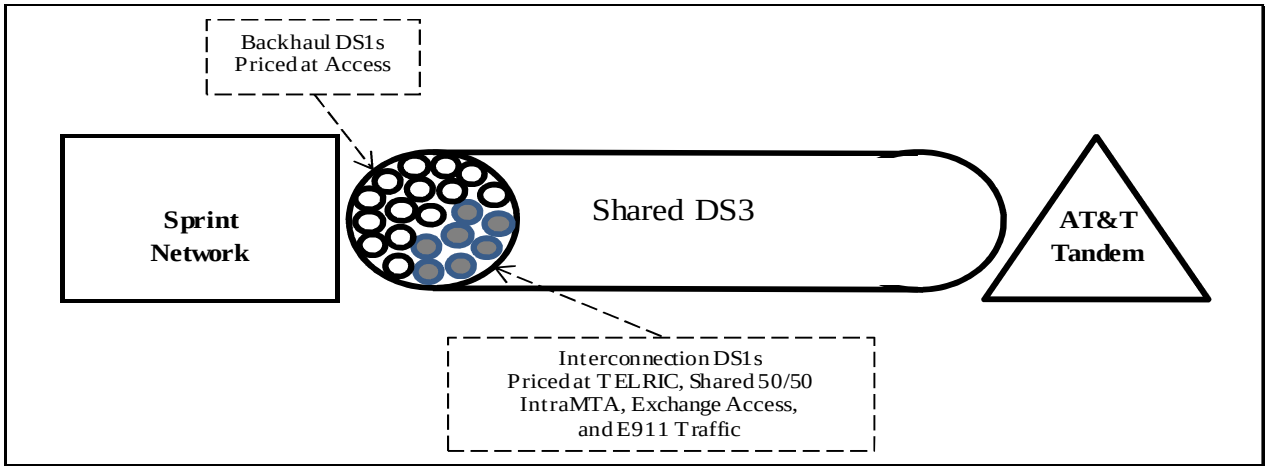
conditions which will prevent Sprint from ever realizing TELRIC-based pricing, Sprint seeks assurance that it will be entitled to any future price changes due to any prospective Commission decisions regarding TELRIC-based pricing for Interconnection Facilities.

B. Staff Testimony

Q. On page 71, beginning at lines 1770 – 1796, Dr. Liu describes Sprint's "DS1/DS1 equivalent pricing." Is her description correct?

A. No. As explained above, Sprint's proposal is not only simple, but is similar to DS1 pricing adjustments made between the Parties in other contexts. Assume Sprint leases a DS3 facility. A DS3 has the capacity of 28 DS1s. If 7 DS1s (25% of its capacity) are used for Interconnection, and 21 DS1s (75% of that capacity) are used for backhaul, then the price of that facility should be weighted 25% TELRIC (for Interconnection) and 75% special access (for backhaul), as shown in Diagram 1.

Diagram 1
Interconnection DS1s and Backhaul DS1s
Sharing a DS3



It is important to note that carrying Interconnection traffic and backhaul traffic over the same DS3 facility is a routine practice by all carriers (including AT&T and its affiliates); thus, it is obviously "technologically feasible" per 47 U.S.C. § 251(c)(2)(b). There is no technological reason to force Sprint to lease "stand-alone" segregated DS1s for each type of traffic as a pre-requisite for TELRIC pricing. Such an AT&T-imposed restriction is technologically inefficient and artificially drives up Sprint's costs. It is only AT&T's imaginary restriction that high-capacity facilities must be used "exclusively" for interconnection that would require such an arrangement.

Issue 46 [Section V.D(3)] – Should Interconnection facilities cost be equally shared (50/50 basis)?

Issue 47 [Section V.D(4)] – Should the Billing Party discount the invoice for Interconnection facilities by fifty percent (50%) to reflect an equal sharing of the costs?

A. AT&T Testimony

Q. What is Sprint's concern in Issue 46 and 47?

A. AT&T treats Issues 46 and 47 together in one section of Ms. Pellerin's testimony. As discussed in my Direct Testimony, Sprint is requesting that the cost of the jointly used Interconnection Facility be shared equally between the two parties that jointly use the Interconnection Facility.[33] This is entirely consistent with 47 CFR §§ 51.507(c) and 51.709(b), and the *CAF Order*, which states that interconnection benefits the customers of both Sprint and AT&T by allowing the customers of both parties to make and receive calls.[34]

Q. On page 41, line 944, Ms. Pellerin states, "Interconnection Facilities are transmission facilities that connect Sprint's network to AT&T Illinois' network for the mutual exchange of traffic. (See GT&C, section 2.60). By

[33] *Exhibit 3.0 of Randy G. Farrar*, Exhibit 3.0, at page 43 and 46, respectively.

[34] *CAF Order*, paragraphs 744, 755, 756, and 806.

definition, therefore, Interconnection Facilities are facilities located entirely on Sprint's side of the POI." What is your response to this statement by Ms. Pellerin?

A. Ms. Pellerin's statement is a *non sequitur*. In other words, she presents her first sentence as "proof" of her second sentence. In fact, while I agree with her first sentence, there is absolutely nothing in it that supports her second sentence. She can point to nothing in the *1996 Act*, the *FCC Rules*, the *CAF Order*, or the *Talk America Decision* which actually defines the term "POI" and "interconnection" as she wishes.

47 C.F.R. § 51.5 defines Interconnection as follows:

> *Interconnection*. *Interconnection* is the linking of two networks for the mutual exchange of traffic.

Explicitly, "interconnection" is *not* "transmission facilities that connect Sprint's network to AT&T Illinois' network for ***Sprint's*** exchange of traffic," as Ms. Pellerin declares. Rather, "interconnection" is "the linking of two networks for the ***mutual*** exchange of traffic." This is not a minor issue of wording. It is key to understanding AT&T's view of interconnection. To AT&T, "interconnection" is a privilege granted to Sprint by *the 1996 Act*, for which Sprint must pay AT&T. There is absolutely nothing in *1996 Act*, the *FCC Rules*, the *CAF Order*, or the *Talk America Decision* that supports AT&T's limited view of interconnection.

Finally, Ms. Pellerin misquotes GT&C, section 2.60. Specifically, she claims that it reads: "Interconnection Facilities are transmission facilities that connect Sprint's network ***to*** AT&T Illinois' network for the mutual exchange of traffic." Actually, the undisputed language reads: "Interconnection Facilities are transmission facilities that connect Sprint's network ***with*** AT&T Illinois' network for the mutual exchange of traffic."[35] Again, this is not just a minor issue of wording; rather, it is a key part of AT&T's view. The undisputed word "with" implies both parties are interconnecting with each other for the "mutual exchange of traffic." Ms. Pellerin's substitution of the word "to" implies that interconnection is solely for Sprint's benefit and, therefore, it is all Sprint's responsibility to interconnect to AT&T.

Q, On Page 42, line 966, Ms. Pellerin states, "… pursuant to section 251(c)(2) Sprint will be entitled to interconnect at a single POI in a LATA, with AT&T Illinois bearing 100% of the transport cost from that POI to each tandem and end office in the LATA. Thus, Sprint proposes that AT&T Illinois share equally the cost on Sprint's side of the POI, but Sprint would not share any costs on AT&T Illinois' side of the POI." What is your response to this statement by Ms. Pellerin?

A. What Ms. Pellerin presents as a terrible inequity is actually the perfectly reasonable consequence of 47 U.S.C.. § 251(c)(2) interconnection between equal co-carriers. As shown in Diagram 2 below, Ms. Pellerin is correct when she states that AT&T will be financially responsible for "100% of the transport cost from that POI [i.e.

[35] Actually, the exact wording of GT&C 2.60 is in dispute. However, the first sentence that I quote here, and which Ms. Pellerin misquotes, is not in dispute.

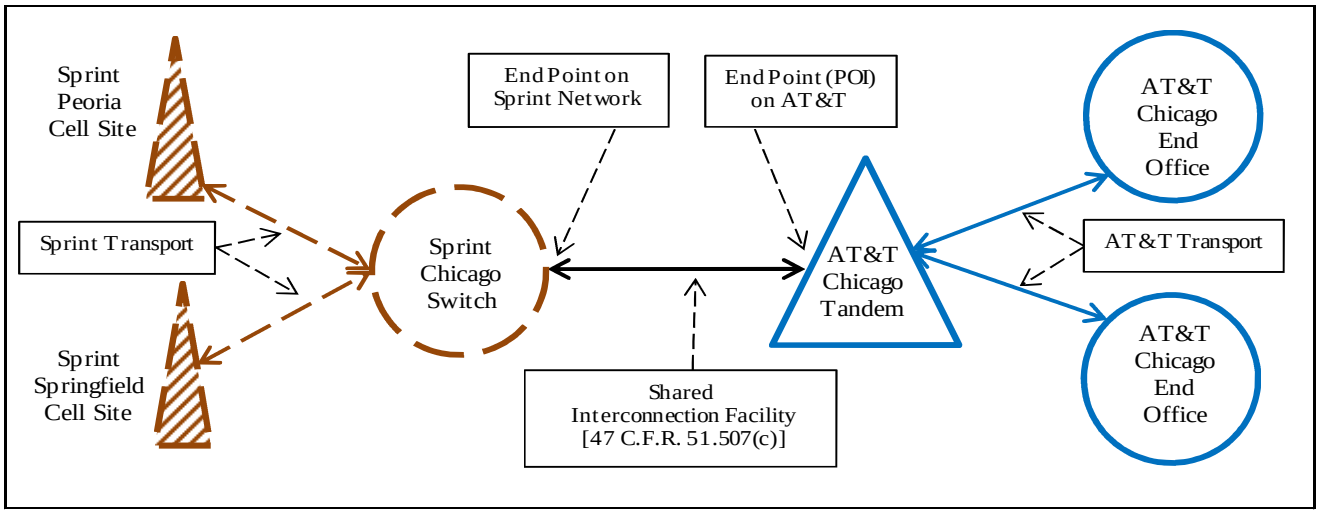
the ”end point” of the Interconnection Facility on AT&T’s network] to each tandem and end office in the LATA,” as depicted on the right side of Diagram 2. But, this is entirely reasonable and is actually a financial benefit to AT&T.

Q. How is this a financial benefit to AT&T?

A. Ms. Pellerin ignores the reverse situation – when an AT&T-originated call terminates to Sprint, Sprint will be financially responsible for 100% of the transport cost from the end point of the Interconnection Facility at the Sprint switch to any terminating cell site. In fact, Sprint’s transport costs can be significantly greater than AT&T’s. AT&T’s transport costs are geographically limited to a single LATA. However, the AT&T-originated call to Sprint can terminate anywhere in the LATA or anywhere in the MTA. When an AT&T Chicago end user calls a Sprint end user with a Chicago telephone number, Sprint is 100% financially responsible for the transport from its mobile switch in Chicago to the cell site being used by its mobile customer, even if that cell site is in a different LATA within the Chicago MTA, as depicted on the left side of Diagram 2.

Thus, the situation Ms. Pellerin presents as a terrible inequity is, in reality, a financial benefit to AT&T.

Diagram 2
47 C.F.R. § 251(c)(2) Interconnection Between Equal Co-Carriers



Q. On page 44, line 997, Ms. Pellerin states, "… the Commission has already rejected reliance on [47 C.F.R. § 51.709(b)] as support for a sharing proposal similar to the one Sprint is proposing in this case. In Docket No. 05-0402 …." What is your response to this statement by Ms. Pellerin?

A. While Sprint will address legal issues in its Brief, other portions of the FCC Rules also support Sprint's position. Specifically, 47 C.F.R. § 51.507(c) states:

> **§ 51.507 General rate structure standard.**
>
> (c) The costs of shared facilities shall be recovered in a manner that efficiently apportions costs among users. Costs of shared facilities may be apportioned either through usage-sensitive charges or capacity-based flat-rated charges, if the state commission finds that such rates reasonably reflect the costs imposed by the various users.

Q. Is there a more recent FCC proceeding concerning the interpretation of 47 C.F.R. § 51.709(b) concerning interconnection facilities which supersedes Ms. Pellerin's reference?

A. Yes. In a more recent case involving AT&T Illinois and a CMRS provider, the FCC used 47 C.F.R. § 51.709(b) to support a decision concerning the sharing of interconnection facility costs that is absolutely consistent with Sprint's position. Specifically, in its *MAP Mobile Decision* (attached as Exhibit RGF-6.1) the FCC ruled that Illinois Bell (i.e., AT&T Illinois) could not bill a CMRS carrier for interconnection facilities used to deliver Illinois Bell-originated traffic on the CMRS carriers' side of the point of interconnection on AT&T's network. Specifically, the FCC stated:

> 25. … SWBT and the Midwest ILECs [which included AT&T Illinois] argue that the Commission has not expressly prohibited carriers from charging for any costs incurred for transporting traffic to paging carriers' networks.[fn] In their view, section 51.703(b), as interpreted by *TSR Wireless v. US West,* "only prohibits LECs from charging paging carriers for facilities used to deliver 'LEC-originated, intraMTA traffic *to the paging carrier's point of interconnection'*"[fn] and, conversely, provides that paging carriers are "responsible for charges for facilities ordered from the LEC to connect points on the paging carrier's side of the point of interconnection."[fn] They argue that "[t]he facilities that MAP ordered to connect its network to SWBT's and the Midwest ILECs' networks lie on *MAP*'s side of such points of interconnection" and that these facilities are therefore not subject to the prohibition against origination charges.[fn]
>
> …
>
> 28. We disagree that SWBT and the Midwest ILECs [e.g., Illinois Bell] may bill MAP for all of the interconnection facilities and services at issue in this dispute. Section 51.703(b) of the Commission's rules prohibit LECs from charging CMRS carriers for traffic originated on their networks. Applying that law (and section 332 of the Act) in the context of LEC-CMRS interconnection, the Commission held that, in absence of an agreement to the contrary, LECs cannot charge one-way paging carriers for facilities and services used to deliver LEC-originated traffic to the paging carrier's network, where the traffic originates and terminated within the same MTA. ….
>
> 29. … Defendants position is undermined by section 51.709(b) of the Commission's rules, which expressly provides that "[t]he rate of a carrier providing transmission facilities dedicated to the transmission of traffic between the two carriers' networks shall recover only the costs of the

> proportion of that trunk capacity used by an interconnecting carrier to send traffic that will terminate on the providing carrier's network."[fn] Section 51.709(b) thus specifically prohibits an incumbent LEC from charging for the use of interconnection facilities in connection with incumbent LEC-originated traffic. This prohibition in section 51.709(b) merely applies the general principle of 51.703(b) – that a LEC may not impose on a paging carrier an cost the LEC incurs to deliver LEC-originated, intraMTA traffic, … to the specific case of dedicated facilities,"[fn] and thus is encompassed by the more general prohibition under section 51.703(b).
>
> 30. … Thus, nothing in in the *Triennial Review Order* permits SWBT and the Midwest ILECs [e.g., Illinois Bell] to bill MAP for all of the interconnection facilities and services at issue in this dispute.
>
> 31. Nor is there any basis to conclude that the prohibition in sections 51.703(b) and 51.709(b) of our rules do not apply in this case. It is undisputed that the direct interconnection facilities at issue were dedicated to the direct transmission of traffic between MAP and SWBT or the Midwest ILECs [e.g., Illinois Bell], and were located within the MTA where the traffic at issue originated. ….[36]

Thus, the FCC has interpreted its own rule 47 C.F.R. § 51.709(b) consistent with Sprint's position in this proceeding and in a manner that is inconsistent with Staff's interpretation of Docket No. 05-0402 and AT&T's interpretation in this proceeding.

Q. Does AT&T view sharing as inconsistent with AT&T's view of what constitutes a Section 251(c)(2) Interconnection?

A. Yes, but there is no basis for AT&T's view. In fact, AT&T devotes much of its Issue 49 discussion to its view that an AT&T "Section 251(c)(2)" or "CLEC" interconnection model differs from the "CMRS" interconnection model, and sharing is only applicable to the "CMRS" model.

[36] *MAP Mobile Decision*, ¶¶ 28 – 31.

Note that the following questions/answers respond to this AT&T testimony (in AT&T Issue 49) to demonstrate that there is no "CLEC" vs. "CMRS" model and, therefore, "sharing" is always applicable to Interconnection Facilities.

Q. On page 5, line 100, Ms. Pellerin states, "AT&T Illinois and CLECs (as opposed to CMRS providers like Sprint) have implemented standard Interconnection arrangements that comply with the requirements of section 251(c)(2) since passage of the 1996 Act." What is your response to this statement by Ms. Pellerin?

A. This statement is false. AT&T has created an artificial distinction between what it refers to as a § 251(c)(2) interconnection model, or the "CLEC Model," and Sprint's interconnection model, or the "CMRS Model." This distinction exists only within the testimony of AT&T. Neither the *1996 Act*, the *FCC Rules*, nor the *CAF Order*, make any such distinction that would discriminate against CMRS carriers when compared to other telecommunications carriers.

In addition, Illinois Administrative Code Section 790.310 does not contain any language suggesting two separate interconnection models.

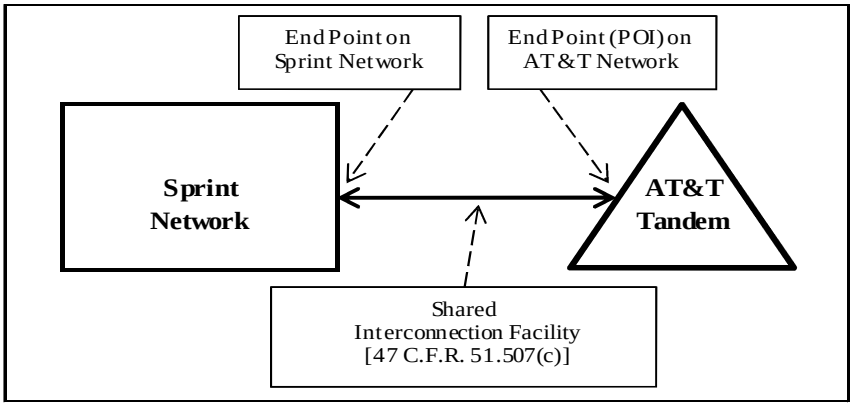
Q. How do all carriers, including CMRS carriers, interconnect with AT&T?

A. Carriers routinely directly interconnect with AT&T for "the mutual exchange of traffic." As shown in Diagram 3, AT&T is delivering AT&T-originated traffic to Sprint (the terminating carrier), while at the same time and over the same two-way

Interconnection Facilities, Sprint is delivering Sprint-originated traffic to AT&T (the terminating carrier). Note that both Parties are sharing the same Interconnection Facilities for the "mutual exchange of traffic" between the two Parties' networks, in exactly the same manner for exactly the same purpose.

Diagram 3 also depicts that the shared Interconnection Facility has an end point on the Sprint network and an end point on the AT&T network. The "POI" merely represents a "technically feasible" point on the AT&T network, which, in this case is the end point of the facility where it connects to AT&T's network. The existence or location of the POI(s) has no impact on the fact that the Interconnection Facility is jointly used by both AT&T and Sprint for the "mutual exchange of traffic." The POI on the AT&T network simply represents the end point where the jointly used Interconnection Facility connects to the AT&T network.

Diagram 3
Interconnection Facility Between Sprint and AT&T



Q. Does 47 U.S.C. § 251(c)(2)(B) address the interconnection end point on Sprint's network?

A. No, because there is no reason to. Because 47 U.S.C. § 251(c)(2)(B) is explicitly addressing the ILEC's obligations and duties (not the requesting carrier's), it is silent regarding the end point of any interconnection facility on the requesting carrier's network. Of course, there is an interconnect end point on both parties networks. However, AT&T takes the fantastic leap in logic that a) since 47 U.S.C. § 251(c)(2)(B) does not mention the end point at the competing carrier's network and b) AT&T only references such end-point on the competing carrier's network as a "POI" in the context of its "CMRS" model, then its CMRS model is not a § 251(c)(2) arrangement.

Q. On page 5, line 106, Ms. Pellerin states, "In this [section 251(c)(2)(B)] arrangement, each party is financially responsible for the facilities on its side of the POI(s)." Is this correct?

A. No. Contrary to Ms. Pellerin's paraphrasing, 47 U.S.C. § 251(c)(2)(B) does not say anything even remotely implying that the requesting carrier is financially responsible for the entire Interconnection Facility, regardless of how many end points or POIs she believes may exist. In fact, AT&T cannot point to anything in the *FCC Rules* to support their contention that a requesting carrier is 100% financially responsible for Interconnection Facilities carrying AT&T-originated traffic. Section 251(c)(2)(B) does not in any way address the parties' financial responsibility with respect to an Interconnection Facility that mutually link the parties' networks. Such financial responsibility is governed by the FCC's Rules 51.703(b) and 51.709(b) as discussed in the *MAP Mobile Decision.*

Q. On page 6, line 116, Ms. Pellerin states: "Since section 251(c)(2)(B) clearly requires that the POI be established on the ILECs network, the designation of a POI at the CMRS location for land-to-mobile traffic is not consistent with section 251(c)(2) Interconnection." Is that correct?

A. No, for the same reasons discussed above.

Q. On page 7, line 136, and page 9, line 164, Ms. Pellerin shows a diagram of the "CMRS Model" interconnection and the "251(c)(2) CLEC Model" interconnection. What is the difference in the two models diagramed by Ms. Pellerin?

A. There is absolutely no difference between the "CMRS Model" and the "CLEC Model." All carriers interconnect using the same pieces of equipment; e.g., fiber optic cables, fiber optic terminals, muxing equipment, and main frames. Again, any distinction between CLEC and CMRS interconnection under Section 251(c)(2) is a fiction invented by AT&T, which is not supported by any language in the *1996 Act*, the *FCC Rules*, or the *CAF Order*.

Ms. Pellerin's two diagrams are virtually identical to my Diagram 3. All three diagrams show Interconnection Facilities between the AT&T network and the Sprint network. All three diagrams show Sprint-originated traffic being delivered to AT&T and AT&T-originated traffic being delivered to Sprint over the same Interconnection Facilities. Most importantly, all three diagrams show an

interconnection end point at the Sprint end of the Interconnection Facility and another end point at the AT&T end of the Interconnection Facility.

The only difference in Ms. Pellerin's two diagrams is that in the "CMRS Model" on page 7, both Interconnection Facility end points are labeled as a "POI," while in the "251(c)(2) CLEC Model" only the end point at the AT&T side of the Interconnection facility is labeled as a "POI." In fact, the labeling on the two diagrams is the only difference between the AT&T "CMRS Model" and the "251(c)(2) CLEC Model." Again, this distinction is not described in either the *1996 Act*, the *FCC Rules*, or the *CAF Order*; it exists only in the testimony of AT&T.

Q. On pages 34, line 809 and page 35, line 827, Mr. Albright presents two diagrams depicting the AT&T self-defined "CMRS Model" and the "CLEC 251(c)(2) Model." Are these diagrams materially different than the diagrams found on pages 7 and 9 of Ms. Pellerin's testimony?

A. No. As already discussed, AT&T simply chooses to label some Interconnection Facility end points as a "POI," and chooses not to label other Interconnection Facility end points as a "POI." As with Ms. Pellerin's diagrams, this distinction is not supported by any language in the *1996 Act*, the *FCC Rules*, or the *CAF Order*.

Q. On page 10, line 198, Ms. Pellerin states that "Sprint's proposals are inconsistent with section 251(c)(2) in two major respects. First, Sprint

proposes to maintain a cost-sharing arrangement …. Sprint's proposal in this regard is directly contrary to the well-recognized principle that, under section 251(c)(2), each carrier is financially responsible for the transport facilities on its side of the POI." Is this correct?

A. No. Ms. Pellerin's position is premised upon the same AT&T arguments rejected by the FCC in the *MAP Mobile Decision*, and must be rejected here for the same reasons.

Q. On page 11, line 207, Ms. Pellerin states, "Second, Sprint proposes that it be allowed to use TELRIC-priced Interconnection Facilities not only to route Interconnection traffic … but also [backhaul traffic]." Is this correct?

A. No. As already discussed, Sprint acknowledges that it is not entitled to TELRIC-based pricing on that portion of the facility used for backhaul. Sprint's proposal is to apportion high-capacity facility costs based on percentage usage for backhaul and Interconnection, which is a "technically feasible" process.

Also as part of her argument, on page 11, line 214, Ms. Pellerin again makes the false claim that "Sprint's proposal … is contrary to the rule that ILECs are required to make TELRIC-based priced entrance facilities available solely for Interconnection as defined by the FCC for purposes of section § 251(c)(2) …." Again, 47 U.S.C. § 251(c)(2) has no language supporting Ms. Pellerin's claim.

Q. On page 33, line 798, Mr. Albright states, "The rules that govern 251(c)(2) Interconnection differ from a CMRS arrangement in that a POI must be on the ILEC's network and each carrier is responsible for the facilities on its respective side of the POI, regardless of which party originates the traffic." Is this correct?

A. No. This is simply the same argument raised by Ms. Pellerin's testimony that I have already addressed, and should be rejected for the same reasons.

Q. On page 5, line 108, Ms. Pellerin states, "Pursuant to the Supreme Court's decision in Talk America, Inc., v. Michigan Bell Tel Co., 131 S.Ct. 2254 (June 9, 2011), existing entrance facilities that connect the networks of the CLEC and AT&T Illinois and that are used solely for section 251(c)(2) Interconnection (and not, for example, for backhaul (which I explain below) or 911 traffic) must be made available to the CLEC at a TELRIC-based price." Has she properly paraphrased the *Talk America Decision*?

A. No. Ms. Pellerin has inserted the phrase "that are used solely for 251(c)(2) Interconnection" which does not appear anywhere in the *Talk America Decision*. As I stated earlier in Issue 44 regarding Dr. Liu's use of the word "exclusively' in connection with the *Talk America Decision*, when read in context of the underlying issue, i.e., the purpose for which a facility is used (backhaul vs. Interconnection), that decision makes it clear that competitive carriers are entitled to entrance facilities at cost-based rates for facilities that are being used for Interconnection. The *Talk America Decision* is still consistent with the principle that a high-capacity

DS3 can be used for multiple purposes and the applicable pricing must be applied on a proportionate basis.

Q. Does the FCC's *CAF Order* address the issue of allowing carriers to transport different types of traffic over an interconnection facility?

A. Yes. The *CAF Order* explicitly allows carriers to carry multiple types of traffic over interconnection facilities. It also explicitly states that compensation for the different types of traffic is to be covered in an interconnection agreement. Specifically, the *CAF Order* states:

> Consequently, we make clear that a carrier that otherwise has a section 251(c)(2) interconnection arrangement with an incumbent LEC is free to deliver toll VoIP-PSTN traffic through that arrangement, as well, consistent with the provisions of its interconnection agreement. The Commission previously held that section 251(c)(2) interconnection arrangements **may not be used solely for the transmission of interexchange traffic** because such arrangements are for the exchange of "telephone exchange service" or "exchange access" traffic – and interexchange traffic is neither. **However, as long as an interconnecting carrier is using the section 251(c)(2) interconnection arrangement to exchange some telephone exchange service and/or exchange access traffic, section 251(c)(2) does not preclude that carrier from relying on that same functionality to exchange other traffic with the incumbent LEC, as well.** This interpretation of section 251(c)(2) is consistent with the Commission's prior holding that carriers that otherwise have section 251(c)(2) interconnection arrangements are free to use them to deliver information services traffic, as well. Likewise, it is consistent with the Commission's interpretation of the unbundling obligations of section 251(c)(3), where it held that, as long as a carrier is using an unbundled network element (UNE) for the provision of a telecommunications service for which UNEs are available, it may use that UNE to provide other services, as well. **With respect to the broader use of section 251(c)(2) interconnection arrangements, however, it will be necessary for the interconnection agreement to specifically address such usage to, for example, address the associated compensation**.[37] (Emphasis added, footnotes omitted.)

[37] *CAF Order*, at paragraph 972.

The only usage limitation imposed by the *CAF Order* is that "the section 251(c)(2) interconnection arrangements may not be used solely for the transmission of interexchange traffic …." Note that the interconnection facility may carry interexchange traffic, ***but it may not be used solely for interexchange traffic***.

To be clear, Sprint is not saying that its right to mutually exchange all types of traffic over the Interconnection Facility means that Sprint would also receive TELRIC pricing on that portion of a high-capacity facility that is used for backhaul. Backhaul traffic is segregated from Interconnection traffic. Backhaul traffic rides a backhaul DS1 and Interconnection traffic rides an Interconnection DS1. This is expressly why it is technically feasible to identify and apply the appropriate pro-rata charge (TELRIC vs. non-TELRIC pricing) to high-capacity facilities – as is already done in other contexts.

Q. On page 9, line 178, Ms. Pellerin states, "Sprint, however, wants to avail itself of the right to pay TELRIC-based prices for Interconnection facilities, and Sprint is entitled to do that only if the parties interconnect in accordance with section 251(c)(2)." Is this correct?

A. Yes. Sprint does want to "to avail itself of the right to pay TELRIC-based prices for Interconnection facilities … [in] accordance with section 251(c)(2)" because Sprint is absolutely entitled to under 47 U.S.C. § 251(c)(2). Sprint is entitled to interconnection under 47 U.S.C. § 251(c) per the *1996 Act*, the *FCC Rules*, and the

CAF Order, as is any other telecommunications carrier that provides telephone exchange or exchange access service.

B. Staff Testimony

Q. On page 15, line 346, Dr. Liu states, "… Sprint seems to be recycling arguments that have been rejected by the Commission in its prior arbitration proceeding. For example, Sprint argues that its cost-sharing proposal is consistent with Sections 51.507(c) and 51.709(b) of the FCC rules. Sprint relied on the same arguments in Docket No. 05-0402 to support its cost sharing proposal but did not prevail." What is your response to this statement by Dr. Liu?

A. While she is correct in this statement, there have been subsequent events which demonstrate that Sprint's position is correct. Specifically, I refer to the FCC's *MAP Mobile Decision*, discussed above, where the FCC interpreted 47 C.F.R. § 51.709(b) in the exact same manner as does Sprint. In addition, the FCC's *CAF Order* makes it clear that both the calling and called parties benefit from a call.

Q. On page 19, line 467, Dr. Liu states, "Mr. Farrar does not provide specific references to such alleged FCC position [that both the calling and called parties <u>equally</u> benefit from a call]. …. It appears that Mr. Farrar may have misinterpreted the Order." What is your response to this statement by Dr. Liu?

A. I have not misinterpreted the *CAF Order*. As I discussed extensively in my Direct Testimony beginning on page 7, line 143, the FCC made it absolutely clear that both the calling and called parties benefit from a call, and that sharing the cost of the call is entirely appropriate. A great deal of Dr. Liu's positions are based on overlooking this key element of the FCC's *CAF Order*.

Note that Dr. Liu agreed with AT&T's testimony concerning issues raised in Issue 49. Thus, the following questions/answers respond to the portion of Dr. Liu's testimony which follows AT&T's Issue 49, and will demonstrate that there is no "CLEC" vs. "CMRS" model and, therefore, "sharing" is always applicable to Interconnection Facilities.

Q. On page 79, line 1978, Dr. Liu states, "In my opinion, there are four issues associated with the conversion of the parties' existing interconnection arrangement to a Section 251(c)(2) interconnection agreement." What is your response to this statement by Dr. Liu?

A. This statement contains an incorrect presumption. It also sums up Staff's error in its analysis of Issue 49. Dr. Liu is simply wrong when she presumes that Sprint is converting "the parties' existing interconnection arrangement to a Section 251(c)(2) interconnection agreement." While it does get to the heart of the disagreement between Sprint and AT&T, Dr. Liu incorrectly accepts AT&T's fiction that Sprint is migrating from a "CMRS" interconnection model to a 47 U.S.C. § "251(c)(2)" or "CLEC" model. Sprint is *not* doing such a thing.

47 U.S.C. § 251(c)(2) explicitly states:

> (c) ADDITIONAL OBLIGATIONS OF INCUMBENT LOCAL EXCHANGE CARRIERS. – In addition to the duties contained in subsection (b), each incumbent local exchange carrier has the following duties:
>
> (2) INTERCONNECTION. – The duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network –
>
> (B) at any technically feasible point within the carriers network;

47 U.S.C. § 251(c)(2) applies to ALL telecommunication carriers – it does not exclude CMRS carriers. Specifically, the *First Report and Order* states:

> As discussed in the preceding section, CMRS providers meet the statutory definition of "telecommunications carriers." We also agree with several commenters that many CMRS providers (specifically cellular, broadband PCS and covered SMR) also provide telephone exchange service and exchange access as defined by the 1996 Act. Incumbent LECs must accordingly make interconnection available to these CMRS providers in conformity with the terms of sections 251(c) and 252, including offering rates, terms, and conditions that are just, reasonable and nondiscriminatory.[38]

In other words, Sprint has always been mutually exchanging traffic pursuant to 47 U.S.C. § 251(c)(2) with AT&T, and continues to do so today. Sprint is *not* migrating to a 47 U.S.C. § 251(c)(2) arrangement. What Sprint is requesting is simply the terms and conditions that it is entitled to – including TELRIC pricing for facilities when such facilities are used as Interconnection Facilities.

Dr. Liu's "four issues" do not actually exist, at least not as defined anywhere in the *1996 Act*, the *FCC Rules*, the *CAF Order*, or the *Talk America Decision*. These "issues" only arise because of AT&T's fictional migration to a 47 U.S.C.

[38] *First Report and Order*, at paragraph 1022

§ 251(c)(2) agreement. Staff has adopted AT&T's fictional migration without recognizing the negative impact that AT&T's position will impose upon Sprint and all other competitive carriers.

Q. What do you mean that "Staff has adopted AT&T's fictional migration without any analysis whatsoever?"

A. I find it troubling that Dr. Liu simply accepts AT&T's view of several key Arbitration issues without any further analysis. In addition to AT&T's fictional "migration," on page 87, line 2203, Dr. Liu makes the following statement:

> AT&T notes that the parties have been operating under a non-Section 251(c)(2) dual-POI interconnection arrangement. Under this arrangement ….

This is factually incorrect – 47 U.S.C. § 251(c)(2) does not even mention the term "dual-POI," nor does anything in the *1996 Act*, or the *FCC Rules*. POI is not even a defined term in either *1996 Act*, or the *FCC Rules*. But, Dr. Liu accepts AT&T's "dual-POI" model as if there is some controlling relevance to the term. As previously explained, all Interconnection Facilities have two end points and, therefore, if any are construed as being "dual-POI" then all of them are equally so – even AT&T's "251(c)(2)" / "CLEC" model.

Issue 49 [Section V.D(6)] – Should AT&T require Sprint to issue ASRs and be allowed to charge Sprint for any billing reclassifications or changes to the existing interconnection arrangements to receive TELRIC-based rates?

A. AT&T Testimony

Q. What is Sprint's concern in Issue 49?

A. As discussed in my Direct Testimony, Sprint is requesting TELRIC-based pricing on that portion of Interconnection Facilities used for interconnection; i.e., 47 U.S.C. § 251(c)(2) traffic.[39] There is no reason that AT&T cannot begin billing Sprint the new rates in a very short period of time, certainly no more than 90 days. All that is required is a change in prices and to create a utilization factor, which are routine tasks. Under Sprint's proposal, there is no change to the physical network, only to the pricing of the Interconnection Facilities.

In AT&T's view, in order for Sprint to obtain TELRIC pricing, the existing facilities must be essentially disconnected and new facilities ordered – i.e. an extensive "transition" process. As I understand AT&T's position, because of AT&T-imposed conditions, Sprint will be required to issue new Access Service Requests ("ASR") and required to pay additional non-recurring charges. Ms. Pellerin and Mr. Albright go to great lengths to describe all the physical changes to the network that would be required under AT&T's proposal. However, as I discuss

[39] *Exhibit 3.0 of Randy G. Farrar*, Exhibit 3.0, at page 48.

below, all of these supposed AT&T network changes are due to AT&T-imposed conditions which demonstrate the unreasonableness of AT&T's proposed language. In contrast, under Sprint's proposed language, there is no change to the physical network, and no need to "rearrange" or "groom" anything.

Q. Beginning on page 12, line 234, Ms. Pellerin explains "why it is not possible to 'flash cut' from the existing arrangement to the new section 251(c)(2) interconnection arrangement at the moment the ICA is effective." What is your response to this statement by Ms. Pellerin?

A. Ms. Pellerin's testimony is based on a premise that Sprint does not currently operate under a Section 251(c)(2) arrangement, which is simply not accurate. The only activity that needs to occur to implement TELRIC pricing is to re-price the existing facilities to the extent they are being used for Interconnection.

Ms. Pellerin's explanation of why it is not possible to immediately transition from the "existing arrangement" (the "CMRS Model") to the "new section 251(c)(2) arrangement (the "CLEC Model") is an example of circular reasoning. She reasons that because AT&T has artificially created two interconnection models (a creation not supported by the *1996 Act*, the *FCC Rules*, or the *CAF Order*), it is not possible to transition from one model to the other model. All of the problems identified by Ms. Pellerin have been self-created by AT&T.

Q. On page 33, line 794, Mr. Albright states, "Sprint is asking to re-configure its interconnection arrangement to a CLEC arrangement (also referred to as a 'section 251(c)(2) Interconnection') to take advantage of the ruling concerning entrance facilities in the *Talk America* case." What is your response to this statement by Mr. Albright?

A. This statement is false. First, Sprint is not asking AT&T to "re-configure" anything. It is AT&T attempting to impose a "re-configuration" condition on Sprint as a pre-requisite to AT&T honoring its TELRIC pricing obligation. For the reasons previously explained in my testimony, Mr. Albright's contention that there exist two different and distinct interconnection models is simply not supported by any language found in the *1996 Act*, the *FCC Rules*, or the *CAF Order*.

Q. On page 33, line 800, Mr. Albright states, "In addition, the entrance facilities addressed in the *Talk America* case may only be used for the purpose of 251(c)(2) Interconnection and may not be used for backhaul or other services the carrier may seek to provide." Is this correct?

A. Sprint agrees with Mr. Albright to the extent facilities are used for backhaul, that portion of the facilities is not subject to TELRIC pricing. However, as previously explained, high-capacity facilities are, on a segregated basis, used for backhaul and Interconnection, such that applicable pro-rata pricing is consistent with the *Talk America Decision.* Once the issue regarding TELRIC pricing is addressed for what it really is – a billing matter – the other difficulties perceived by Mr. Albright related to "transition" simply do not exist.

B. Staff Testimony

Q. On page 89, line 2242, Dr. Liu makes the following statement: "**Based on [AT&T witness] Mr. Albright's testimony, the transition from the parties' existing interconnection arrangement to a Section 251(c)(2) interconnection arrangement is not a small undertaking and requires extensive planning and grooming work. It simply cannot be completed overnight." What is your response to this statement by Dr. Liu?**

A. Dr. Liu simply accepts AT&T's view without any further analysis. As discussed above, CMRS interconnections with AT&T consists of the same equipment interconnection by any other carrier; e.g., fiber optic cables, fiber optic terminals, muxing equipment, and main frames. It is only AT&T's fictional migration, and AT&T's imaginary requirement that that Interconnection Facilities must be used "exclusively" for Interconnection that creates any need for "extensive planning and grooming work" – rather than merely a pricing adjustment.

All that is actually required is for AT&T to bill for the same physical equipment and connections at a new, TELRIC-based price, rather than at existing, higher rate. This is nothing more than a billing correction.

Q. If, notwithstanding Sprint's position, the Commission was to decide that "transition" language must be included in the Agreement, does AT&T's language even comport with the tenor of Dr. Liu's view on page 69, line 1712? Dr. Liu states that "Sprint is not forced to establish Section 251(c)(2) interconnection and is free to exchange traffic with AT&T under the existing non-Section 251(c)(2) interconnection arrangement on a negotiated business to business basis. Whether to make the transition is a business decision that Sprint must make." What is your response to this statement by Dr. Liu?

A. No. As I read AT&T's transition language, AT&T would allow either party to cause a transition of Sprint' existing arrangement to commence, and would also require that all transitioning be completed before Sprint received any benefits attributable to TELRIC pricing. As previously referred to in my Rebuttal Testimony, while Sprint does not agree that there is any reason it must physically engage in any "transition" process to receive TELRIC pricing, if the Commission still finds that Sprint must re-order such facilities to implement a price change, it must be made clear that Sprint, at its sole discretion, may determine exactly *which* Interconnection facilities it will re-order, as well as *when* Sprint may elect to do so in order to obtain TELRIC pricing. Stated another way, AT&T cannot force Sprint to convert any facilities at any time, much less require that all facilities must be converted before Sprint can obtain any TELRIC pricing. Without waiving Sprint's objection to there being any transition process as a pre-requisite to TELRIC pricing, Sprint submits that AT&T's transition language would, at a minimum, have to be

modified as reflected in the attached Exhibit RGF-6.2 – Transition Language Related Edits.

III. SUMMARY AND CONCLUSION

Q. Please Summarize your Rebuttal Testimony.

A. Issue 43 – AT&T's Transit Traffic Service is a 47 C.F.R. § 251(c)(2) obligation subject to TELRIC pricing. Sprint has provided several benchmarks (including AT&T cost-based rates from other states) that the Commission can choose from to accomplish that purpose.

Issue 44/45 – Sprint is entitled to obtain Interconnection Facilities at TELRIC prices from AT&T. There is no basis under federal law to impose any of the restrictions suggested required by AT&T and Dr. Liu, restrictions that will assure that Sprint will never obtain Interconnection Facilities at TELRIC.

Issue 46/47 – FCC has repeatedly (most recently in the *MAP Mobile Decision*) and clearly held that the regulations regarding the pricing of dedicated transmission facilities preclude an ILEC from charging a wireless carrier for the portion of facilities on the wireless carrier's side of a POI to the extent the facilities are used to deliver the ILECs traffic to the wireless carrier. Sprint is entitled to TELRIC pricing for facilities that are used for Interconnection, and AT&T cannot charge

Sprint for any portion of dedicated transmission facilities on the Sprint-side of a POI that are used to deliver AT&T traffic to Sprint.

Issue 49 – There is no reason that Sprint would need to physically disconnect and re-arrange existing transmission circuits simply to obtain TELRIC pricing on these existing facilities.

Q. Does this conclude your Rebuttal Testimony?

A. Yes, it does.

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

SPRINTCOM, INC., WIRELESSCO, L.P. THROUGH THEIR AGENT SPRINT SPECTRUM L.P. AND NEXTEL WEST CORP.	)	
Petition for Arbitration, Pursuant to Section 252(b) of the Telecommunications Act of 1996, to Establish an Interconnection Agreement With	)	Docket No. 12-0550
Illinois Bell Telephone Company d/b/a AT&T Illinois	)	

VERIFICATION

I, RANDY G. FARRAR do on oath depose and state that the facts contained in the foregoing document are true and correct to the ~~best~~ of my knowledge and belief.

SIGNATURE OF PERSON VERIFYING DOCUMENT

SIGNED AND SWORN BEFORE ME ON THIS 12TH DAY OF FEBRUARY, 2013.

NOTARY PUBLIC

RHAMIE GLADE
Notary Public, State of Kansas
My Appointment Expires
9-12-16